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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/562,130

12/23/2005

Gianfranco Bedetti

9526-73

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07/15/2008

AKERMAN SENTERFITT

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WEST PALM BEACH, FL 33402-3188

EXAMINER

GRAVINI, STEPHEN MICHAEL

ART UNIT

PAPER NUMBER

3749

MAIL DATE

DELIVERY MODE

07/15/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/562,130	<b>Applicant(s)</b> BEDETTI, GIANFRANCO	
	<b>Examiner</b> Stephen Gravini	<b>Art Unit</b> 3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### DETAILED ACTION

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. See MPEP § 2173.05(c). Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 9 recites the broad recitation supporting the cooling bed, and the claim also recites preferably parallel to said top wall which is the narrower statement of the range/limitation.

Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant

regards as the invention for the broad range limitation followed by a narrow ranger limitation discussed above.

***Claim Rejections - 35 USC § 102***

Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Kinno (US 4,353,730). The claims are reasonably and broadly construed, in light of the accompanying specification, to be disclosed by Kinno as comprising the steps of:

removing the finished hot granules from said granulation fluid bed at column 3 line 35 through column 4 line 12; and

cooling down said granules in a cooling fluid bed, continuously formed and supported by a respective flow of fluidification air, wherein at least part of the fluidification air coming out from said cooling fluid bed of the finished granules is fed into the granulation fluid bed at column 6 line 41 through column 7 line 22. Kinno also discloses the claimed all of the fluidification air fed into the granulation bed comes from the cooling bed at column 3 line 45 and wherein substantially all of the fluidification air coming out from the cooling bed is used as fluidification air for said granulation bed at column 3 line 56.

Claims 4-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Niks et al. (US 4,219,589). The means for language recited in claim 6 is construed to invoke the sixth paragraph of 35 USC 112, because the means for recitation is used, modified by functional language, and not modified by sufficient structure, material, or acts for achieving the specified function. The claims are reasonably and broadly construed, in

light of the accompanying specification, to be disclosed by Niks as comprising the steps of:

cooling finished hot granules in a respective cooling fluid bed, it uses one single flow of fluidification air to continuously form and support, in order, said cooling and granulation fluid beds, substantially arranged in series with respect to said single flow at column 4 lines 35-52. Niks also discloses the claimed cascade feature at column 5 lines 53-62, self-supporting structure **1** substantially shaped like a container, defining a granulation space inside of it, in which a shelf is positioned, intended to support a granulation fluid bed, characterized in that it comprises, in said space, a further base plate **7**, positioned below and in a predetermined distanced relationship from said shelf, said base plate being intended to support a respective cooling fluid bed of hot finished granules coming from said granulation bed, said cooling bed being in fluid communication with said granulation bed through said shelf, provided perforated, grated or in any case permeable to gas flows, a downcomer **26**, extending vertically in said space, suitable for the transfer of finished granules from said granulation fluid bed to said cooling fluid bed) at said further base plate, means **28** for feeding and distributing fluidification air in said space below said further base plate, to form and maintain said cooling bed and said granulation bed, which are arranged in series with respect to said flow, wherein said downcomer comprises a vertical panel, supported in said space in a predetermined spaced relationship from a wall of said container structure, defining with it an interspace, said panel having a horizontal bottom side spaced from said further base plate, so as to define with it a passage, suitable for

putting said interspace in communication with the space above the aforementioned base plate as shown in figure 1, wherein said interspace is in communication at the top with said space, through an opening provided in it as shown in figure 1 wherein said cooling fluid bed is in communication with the outside through a pocket comprised between a wall of said container structure and a front panel fixed to the base plate supporting the cooling bed and preferably parallel to said top wall as shown in figure 1, and wherein said front panel comprises a mobile bulkhead, adjustable in height as shown in figure 1.

### ***Double Patenting***

Claims 1-10 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-7 of copending Application No. 10/560,459. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been an obvious matter of design choice to include the current application claimed growth granule seeds since both copending applications would perform the claimed invention regardless of growth seeds.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

### ***Response to Arguments***

Applicant's arguments filed June 16, 2008 have been fully considered but are moot on the new grounds of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Gravini whose telephone number is 571 272 4875. The examiner can normally be reached on normal weekday business hours (east coast time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven B. McAllister can be reached on 571 272 6785. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Stephen Gravini/  
Primary Examiner, Art Unit 3749